HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 1238 (S/S) year 2003

Umesh Kumar Sharma
S/o Sri Rajesh war Sharma
Vs.
State of Uttaranchal
and others.

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 15.10.2003

Initial of Judge

In the High Court of Uttaranchal at Nainital

Court No.6

Civil Writ Petition No. 1238 of 2003 (S/S)

Umesh Kumar Sharma
S/o Sri Rajeshwar Sharma
R/o Tehsil Haridwar
District Haridwar ……..Petitioner.

Versus

1. State of Uttaranchal
2. Secretary, Public Service Commission,
   Ayog Bhawan Gurukul Kangari
   Kankhal
   District Haridwar ……Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri Manish Arora, learned counsel for the petitioner and Sri U.K. Uniyal, learned counsel for the respondents.

By the present Writ Petition the Petitioner has prayed for the issue of a writ, order or direction in the nature of mandamus commanding the respondents no. 1 and 2. to issue admit card to the petitioner for the interview, which is going to be held on 16.10.2003 for the post of Driver in pursuance of the advertisement made by the Public Service Commission, Uttaranchal.

Brief facts giving rise to the present Writ Petition are that in pursuance of the advertisement for the various posts of Driver through the Public Service Commission, Uttaranchal, the petitioner has applied for the post of Driver.

He has produced before the Court the copy of the receipt for submitting the application form on 23.6.2003. According to the petitioner, the last date for submission of the form was 25.6.2003 and as such his application was in time. According to the petitioner, he has field the application along with the experience certificate issued by the Nagar Magistrate on 27.11.2002 and further he fulfills all the qualifications mentioned in the advertisement.

After hearing the counsel for the petitioner as well as the respondent no. 2, in my opinion the petitioner has applied in time, he cannot be deprived in participanting in the interview. If the application submitted by the petitioner fulfills the eligibility criteria in pursuance of the advertisement no. 1/2003-2004 for the post of Driver in the Public Service Commission, Uttaranchal, there is no reason not to call the petitioner for interview.

There can be no quarrel with the proposition that the natural justice requires that once the petitioner has applied for the post of Driver, the petitioner cannot be deprived of its interview.

Right to reason is an element of administration of justice as held in the State of West Bengal Vs. Atul Krishna Shaw and another (AIR 1990 S.C. 2205), the operative part of the order is quoted below:

> *"Giving of reasons is an essential element of administration of justice. A right to reason is, therefore, an indispensable part of sound system of judicial review. Reasoned decision is not only for the purpose of showing that the citizen is receiving justice, but also a valid discipline for the Tribunal itself."*

There is no reason not to consider the application from of the petitioner in view of the {JT 1996(3) S.C. 597} Union of India & another Vs. M/s Jesus Sales Corporation, which is quoted below:

> *"When principles of natural justice require an opportunity to be heard before an adverse order is passed on any appeal or application, it does not in all circumstances mean a personal hearing. The requirement is complied with by affording an opportunity to the person concerned to present his case before such quasi-judicial authority who is expected to apply his judicial mind to the issues involved."*

It has been held in the State of Orissa Vs. Dr. (Miss) Binapani Dei and others {AIR 1967 Supreme Court 1269}, that administrative order which includes civil consequences may be made according to the ruler. The observations are quoted below:

> *"It is true that the order is administrative in character, but even an administrative order which involves civil*

consequences, as already stated, must be made consistently with the rules of natural justice after informing the first respondent of the case of the State, the evidence in support thereof and after giving an opportunity to the first respondent of being heard and meeting or explaining the evidence."

Since the interview is schedule to take place on 16.10.2003, in the event petitioner fulfills all the qualifications inaccordance with the eligibility criteria, the petitioner may be considered for interview for the post of Driver. If the respondent no. 2 considers that the petitioner's application form was submitted within time as contained in the advertisement, the respondent may issue admit card to the petitioner in accordance with the rules and regulations framed by the Public Service Commission, Uttaranchal.

The respondent no. 2 shall consider as to whether the application of the petitioner, as per the advertisement, was submitted on the relevant date. After considering the aforesaid facts, if the respondent no. 2 is of the opinion that the application was in time and was a valid form, the respondents shall issue the admit card accordingly so as to appear the petitioner in the interview to be held on 16.10.2003.

With these observations, the Writ Petition is disposed of.

(Rajesh Tandon, J.)

Dated: 15.10.2003

Rawat